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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,707	01/02/2002	Idan Feigenbaum	P-2692-US1	6195
24505	7590	11/02/2006	EXAMINER	
DANIEL J SWIRSKY 55 REUVEN ST. BEIT SHEMESH, 99544 ISRAEL			NEURAUTER, GEORGE C	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/032,707	<b>Applicant(s)</b> FEIGENBAUM, IDAN	
	<b>Examiner</b> George C. Neurauter, Jr.	<b>Art Unit</b> 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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**DETAILED ACTION**

Claims 1-25 are currently presented and have been examined.

***Response to Amendment***

The declarations filed on 14 August 2006 under 37 CFR 1.131 is sufficient to overcome the "GetRight" reference.

***Response to Arguments***

Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 13, 15-20, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6 003 045 to Freitas et al.

Regarding claim 1, Freitas discloses a system for downloading a file from a computer, the system comprising:

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a retrieval module for retrieving a plurality of portions of a file from a plurality of computers ("storage devices"), wherein at least a first of said portions is retrieved from a first one of said computers and at least a second of said portions is retrieved from a second one of said computers; an assembling module to assemble said file from said plurality of portions; (column 1, lines 30-37; column 1, line 65-column 2, line 4; column 3, lines 59-63) and

a determination module for determine the presence of said file on each of said computers; (column 2, lines 7-8; column 3, lines 63-64)

wherein said first of said portions and said second of said portions are substantially simultaneously downloaded to said computer. (column 1, line 65-column 2, line 1; column 3, lines 59-63)

Regarding claim 3, Freitas discloses a system according to claim 2 wherein said determination module is operative to:

determine the presence of said file on a primary computer and determine whether said file on each of said plurality of computers is a duplicate of said file on said primary computer. (column 3, lines 33-48)

Regarding claim 4, Freitas discloses a system according to claim 2 wherein said determination module is operative to

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determine that said files on each of said computers have at least one file characteristic in common. (column 3, lines 33-36 and 45-48)

Regarding claim 5, Freitas discloses a system according to claim 1 and further comprising:

a receiver module for receiving a list of the addresses of said computers from a query-capable computer. (column 3, lines 45-48)

Regarding claim 6, Freitas discloses a system according to claim 1 wherein the determination module is operative to determine:

the performance of said computers and to rank said computers from best performing to worst performing, and wherein the retrieval module is operative to retrieve from a selected plurality of said computers selected portions in order of their ranking from best performing to worst performing. (column 3, lines 48-58)

Regarding claim 7, Freitas discloses a system according to claim 6 wherein the determination module is operative to determine the response time of said computers. (column 2, lines 4-6; column 3, line 66-column 4, line 5)

Regarding claim 8, Freitas discloses a system according to claim 6 wherein the determination module is operative to

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determine the throughput of said computers. (column 2, lines 4-6; column 3, line 66-column 4, line 5)

Claims 13 and 15-20 are rejected since claims 13 and 15-20 recite a method that contains substantially the same limitations as recited in claims 1 and 3-8 respectively.

Claim 25 is rejected since claim 25 recites a computer program embodied on a computer-readable medium that contains substantially the same limitations as recited in claim 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 9-12 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freitas in view of US Patent 6 178 460 to Madalozzo, Jr. et al.

Regarding claims 9 and 10, Freitas discloses a system according to claim 1 wherein the retrieval module is operative to:

discontinue retrieving any of said portions from any of said computers that provides its portion at a performance level that falls below a predefined performance level; and continue retrieval of said retrieval-discontinued portion from any other of said computers or other than any of said computers, however, Madalozzo, Jr. does disclose these limitations (column 6, lines 42-50; column 12, line 62-column 13, line 5)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of these references since Madalozzo, Jr. discloses that doing so allows the efficient retrieval of files from a plurality of computers (column 6, lines 24-27). In view of these specific advantages and that the references are directed to the retrieval of files from a plurality of computers, one of ordinary skill would have been motivated to combine these references and would

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have considered them to be analogous to one another based on their related fields of endeavor, which would lead one of ordinary skill to reasonably expect a successful combination of the teachings.

Regarding claims 11 and 12, Freitas discloses a system according to claim 1.

Freitas does not expressly disclose wherein the retrieval module is operative to retrieve using File Transfer Protocol (FTP) or Hypertext Transfer Protocol (HTTP), however, Madalozzo, Jr. does disclose these limitations (column 8, lines 43-44; column 9, lines 36-47, specifically lines 36-40)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of these references since Madalozzo, Jr. discloses that these protocols facilitate the transfer and sharing of files across a remote network such as the Internet (column 9, lines 36-40). In view of these specific advantages and that the references are directed to the retrieval of files from a plurality of computers, one of ordinary skill would have been motivated to combine these references and would have considered them to be analogous to one another based on their related fields of endeavor, which would lead one of ordinary skill to reasonably expect a successful combination of the teachings.



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Claims 21-24 are also rejected since these claims recite a method that contain substantially the same limitations as recited in claims 9-12 respectively.

***Conclusion***

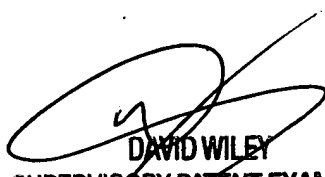
Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is (571) 272-3918. The examiner can normally be reached on Monday through Friday from 9AM to 5:30PM Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/gcn/

  
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